IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

REVIEW PETITION (L) NO.10 OF 2006.
IN
WRIT PETITION NO. 2445 OF 2005 .

Parvez M. Yusuf ... Petitioner.
V/s.
The State of Maharashtra & ors.... Respondents.

Mr. Patel i/b Bhuta & Associates for the Review petitioner.

Ms. Archana Joshi for B.M.C.

Mr.R.M. Sawant, G.P. for the State.

Mr. Munir Merchant for Tenant.

CORAM : V.C.DAGA, J.

DATED : 28.2..2006.

P.C. :

. Heard learned Counsel for the review petitioner. Perused review petition.

2. The background leading to review petition needs to be noticed. This review petition seeks review of the order of this Court dated 19.1.2006, against which appeal bearing Appeal No. 46 of 2006 was preferred before the appellate bench.

3. It appears that arguments were advanced before the appellate bench that the submissions leading to breach of principles of natural justice though argued were not considered by the writ Court.

The Division Bench finding no consideration of the said submission, said to have been advanced by the learned Counsel for the petitioner, thought it fit to permit the appellant (petitioner herein) to invoke review jurisdiction of this Court, so as to bring this fact to the notice of this Court and to enable him to obtain appropriate finding thereon. That is how this review petition is placed before this Court for consideration.

4. I deem it necessary to place on record that the learned Counsel appearing for the review petitioner while arguing review petition did not advance any contention leading to breach of principles of natural justice and alleged non-consideration thereof by this Court; which was vehemently argued by him before the appellate bench. Omission to advance submission leading to breach of principles of natural justice was brought to the notice of the arguing Counsel since that was the purpose for which review jurisdiction was allowed to be invoked by the appellate bench. Learned Counsel for the review petitioner specifically submitted that he did not want to raise that contention.

5. Be that as it may. What is argued before me, at this stage, is that the application for regularisation moved by the plaintiff was well within prescribed time as such authorities should

not have rejected the same holding it to be beyond prescribed time.

6. This contention though available was neither argued before me when writ petition was heard nor before the appellate bench which is clear from the appellate order available on record. If this was a ground available ought to have been a ground of attack in defence in the earlier round of proceedings. At any rate, this new ground for the first time cannot be entertained in the review jurisdiction. No case is thus made out to entertain this review petition. In the result, review petition is liable to be dismissed in limine.

7. I place on record that the so-called tenant of the premises wanted to intervene in this review petition, without taking out any motion in that behalf. By no stretch of imagination such intervention can be allowed without there being any material on record in support thereof.

8. At this stage of the order, the review petitioner and the so-called intervenor (both) prayed for stay of this order. Needless to mention that inervenor can not ask for stay of this order. So far as prayer made by the review petitioner is concerned, the same is considered and rejected being devoid of any substance.

. In the result, review petition is dismissed with no order as to costs.

(V.C. DAGA,J.)